BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to Compel Florida Power & Light to Comply With Fla. Stat. §366.91 and Rule 25.6-065	)))	Docket No. Filed: August 22, 2019

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PETITION TO COMPEL FLORIDA POWER & LIGHT'S COMPLIANCE WITH §366.91, FLA. STAT., AND RULE 25.6-065

Floyd Gonzales and Robert Irwin ("Petitioners"), through their undersigned Counsel and pursuant to Rule 25-22.036, hereby petitions the Commission for an order compelling Florida Power & Light Co. ("FPL") to comply with §366.91, Fla. Stat., and Rule 25.6-065, and approve Petitioners' application for inclusion in its net metering program, stating in support as follows:

Introduction

1. This petition concerns FPL's improper rejection of Petitioners' application for inclusion in its net-metering program. FPL's rejection of Petitioners' application was wrongful because its criteria for acceptance violates and ignores the rules governing net-metering established by the Florida Public Service Commission ("FPSC") per §366.91, Fla. Stat.

2. In accordance with the legislative intent of encouraging customers to install solar panels, the only size limit the FPSC imposed is that a customer's renewable power generation may not exceed 90% of their utility distribution services rating (capacity). Disregarding this entirely, FPL imposes far more restrictive limits based on a customer's power consumption and not capacity.

3. FPL, however, has no authority to deviate from FPSC's rules; their arbitrary limitations violate §366.91 and Rule 25-6.065, and FPL must be compelled to comply with same.

FPL's Net Metering Guidelines Improperly Restrict the Size of its Customer's Renewable Power Generation and Invade the FPSC's Exclusive Rule-Making Authority.

4. Florida established net metering with the enactment of §366.91, Fla. Stat. It was adopted because "[t]he Legislature finds that it is in the public interest to promote the development of

renewable energy resources in this state." *Id.* at (1). Central to FPL's violations here, subsection (5) vests the FPSC with exclusive authority for establishing the rules for who qualifies for acceptance into a utility's net metering program. Specifically, it tasks the FPSC with establishing the "requirements relating to the expedited interconnection and net metering of customer-owned renewable generation by public utilities[.]" *Id.* at (5). The FPSC did so when it promulgated Rule 25-6.065. Just like §366.91, Rule 25-6.065's purpose "is to promote the development of small customer-owned renewable generation, particularly solar and wind energy systems[.]" *Id.* at (1).

5. Subsection (4) of Rule 25-6.065 establishes the ***only*** size limitation for customer-owned renewable power generation systems. It provides that a "customer-owned renewable generation must have a gross power rating that … [d]oes not exceed 90% of the customer's utility distribution service rating[.]" *Id.* at (4)(a). A customer's utility distribution service rating is equivalent to the capacity of that customer's electrical panel.

6. Thus, Rule 25-6.065 is very clear. If a customer-owned renewable generation project does not exceed 90% of that customer's utility distribution service rating (i.e. panel capacity) the project qualifies and should be accepted into any utility's net metering program.

7. Here, Petitioners' renewable power generation is well within the FPSC's limits. Petitioners' electrical panel has a utility distribution service rating of 400 amps and the renewable power is generated through forty-seven (47) 300-watt solar panels, which generate a total of 46.08 amps. Thus, Petitioners' renewable power generation amounts to a mere 11.52% of its utility service rating, in compliance with Rule 25-6.065(4)(a)'s 90% threshold. As a result, Petitioners' application should have been immediately approved as the Rule requires.

8. In direct violation of Rule 25-6.065(4)(a), however, FPL imposes its own arbitrary and far more restrictive limitations based on a property's historical energy consumption rather than utility

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distribution service rating as the FPSC requires. Contrary to the plain language of Rule 25-6.065, FPL's net metering portal instructs its customers that their "[s]ystems should not be sized so large that energy produced by the renewable generator would be expected to exceed 115 percent of the customer's annual kWh consumption." **See Exhibit A.** FPL, though, has no such authority to disregard the FPSC's criteria for acceptance.

9. While vesting the FPSC with exclusive authority to establish the requirements as to who qualifies for inclusion in net metering programs, §366.91(5) limits FPL's involvement to "develop[ing] a standardized interconnection agreement and net metering program for customer-owned renewable generation." *Id.* Tellingly, FPL's standardized interconnection agreement that was approved by the FPSC makes no mention of its arbitrary limitation. **See Exhibit B.** These are clearly improper and unenforceable limitations that are harming customers for FPL's benefit.

10. Accordingly, FPL is obligated to abide by the requirements established by the FPSC in Rule 25-6.065 and approve Petitioners' application for inclusion in its net metering program.

WHEREFORE, Petitioners respectfully request that the FPSC enter an order GRANTING their Motion to Compel Compliance with Rule 25-6.065, ordering FPL to approve Petitioner's application for inclusion into FPL's net metering program, refunding Petitioners all money unnecessarily spent on electricity because of FPL's wrongful rejection of their net metering application, and such other relief as deemed just and proper.

Respectfully submitted this 26th day of August 2019,

/s/ Kyle P. Egger
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Exhibit A

Net Metering Guidelines

Information About Customer-Owned Renewable Generation Grid Interconnections

FPL works closely with customers and contractors to ensure safe, efficient grid interconnections for renewable generation, such as solar panels. Customers with grid-interconnected renewable generation can participate in FPL's net-metering program. The goal of net metering is to offset all or part of the customer's energy use at the customer's metered service account. Systems should not be sized so large that energy produced by the renewable generator would be expected to exceed 115 percent of the customer's annual kWh consumption.

For FPL's complete guidelines, please see the Interconnection Agreement for the appropriate tier:

Tier 1 (up to 10 kW) (https://www.fpl.com/clean-energy/pdf/net-metering-tier1.pdf)

Tier 2 (>10 kW up to 100 kW) (https://www.fpl.com/clean-energy/pdf/net-metering-tier2.pdf)

Tier 3 (>100 kW up to 2,000 kW) (https://www.fpl.com/clean-energy/pdf/net-metering-tier3.pdf)

Key Guidelines

1. Customer-owned renewable generation shall include a utility-interactive inverter, or other device certified pursuant to FPL's net-metering agreement, that performs the function of automatically isolating the customer-owned generation equipment from the energy grid in the event of a grid outage. This requirement is necessary to prevent dangerous back feed, which can endanger restoration personnel who may be working to restore the grid.

- Note: A net-metering customer may operate renewable generation during a grid outage if the customer's system is installed with appropriate equipment (e.g. specialized inverter or battery system).
- A customer may choose to install and operate their renewable generation fully off-grid, however, grid interconnection is required if the customer wishes to participate in net metering.
- If a customer's system does not utilize a U.L. 1741 listed inverter to feed power to FPL, it must have a manual, visual load break disconnect switch (knife blade or fused type). The disconnect switch should only disengage the renewable source, not all of the customer's electrical service. It should be mounted separate but adjacent to the meter. It is important that the switch be easily accessible by FPL personnel (it should not be locked in a meter room), and that it is capable of being secured in an open position with a padlock.
- The switch should be nearby and readily accessible from the meter location. A sign noting the location of the disconnect switch should be installed at the meter to enable FPL personnel to easily locate the disconnect switch in the event of an emergency. The disconnect switch should also have a warning sign indicating that both sides of the switch may be energized. Please contact FPL for approval of a remote switch location and the verbiage or the location of the sign prior to the final design.

2. The gross power rating or the alternating current (AC) rating for the system is the array direct current (DC) rating multiplied by 0.85. The AC rating determines the tier that the system falls under for agreement purposes. There are three tiers by system size; tier 1 is 10 kW and below, tier 2 is above 10 kW up to 100 kW, and tier 3 is above 100 kW up to 2,000 kW (2 megawatts).
    - The customer's system must adhere to National Electric Code (NEC) Article 690 - Solar Photovoltaic (PV) Systems. Interconnections with the utility transformer or in the meter can are not permitted.
    - Customer generation is limited to 90 percent of the FPL service capacity. FPL will upsize facilities for customer generation at the customer's expense. FPL will not increase the size of the distribution equipment greater than required for a renewable energy system designed to offset all of the customer's annual energy use.
    - To ensure proper phase balancing across distribution feeders and to accommodate higher levels of distributed generation, FPL requires any NEM system 50KW or greater to interconnect at 120/208v or 277/480v wye three phase. If 3phase power is not available the requesting NEM customer can elect to decrease the size of their system or at the property owner's expense request 3phase wye power. FPL will provide a ball park estimate for utility upgrades required, the customer will be responsible for any necessary upgrades to the property owners electrical entrance.

3. The customer on the account must complete an application, interconnect agreement, obtain a building permit, and for Tier 2 and 3, obtain proof of insurance and pay an application fee.
4. Once construction is complete, a customer should provide a copy of the approved permit or a screen print from the local authority's website indicating the permit has been approved and that includes the following:
    - Electrical and mechanical inspection signed off / approved by the local inspector
    - Description of work - (e.g. solar, solar panels, PV, wind turbine, etc.)
    - Address of where the system was installed
    - Permit number
    - Building department name
5. Operation of the renewable generation system, except for testing and inspection, prior to the installation of a new bi-directional meter is strictly prohibited. Operating your renewable system without the bi-directional meter can result in an inaccurate meter reading, causing your electric bill to increase.
6. Battery systems for personal use (customer-owned installations behind the customer's meter)

   For customers interested in installing battery storage systems for personal use (i.e., behind the customer's meter), FPL has developed the policy below. The policy ensures we adequately protect the safety of those working on the electrical grid, monitor the impact of energy storage systems on the grid, and evaluate the potential economic impact of the installation of these systems to all customers. This policy is subject to change as the implications of this emerging technology are better understood, and as legislative or regulatory action may dictate.

   ### Technical specifications

   Battery storage equipment installed behind a customer's meter must have a certification conducted by a Nationally Recognized Testing Laboratory (NRTL) to the current UL 1741 standard for safety. A placard must be permanently affixed to the meter enclosure stating "Battery storage utilized in this facility." Battery storage that is not UL 1741 certified must be DC coupled behind a UL 1741 listed device.

Battery storage integrated with customer-owned renewable generation systems

Energy stored by the battery is only for the customer's use. While it may operate interconnected with the electrical grid, at this time the customer may not export power from the battery to the grid. Battery storage for Tier 3 systems will be reviewed in the fast track study.

Battery for backup support

Battery storage systems installed without a renewable generation system and intended as an emergency backup power source may be charged from the electrical grid. No interconnection agreement is required. However, as with customer-owned backup generators, the customer is responsible for ensuring that power from the battery does not back-feed to the grid to avoid a safety hazard for workers or the public. Customers assume all liability associated with the use of such battery systems.

Battery storage continuously interconnected to the electric utility

Customers are required to notify FPL of battery systems installed without a renewable generation system, and designed to charge from the grid and operate interconnected with the grid. It is anticipated that FPL will develop a standard Utility Interactive Battery Storage application to gather information about such installations. If a customer does not intend to export power to the electrical grid, an interconnection agreement is not required.

If a customer wants to export power to the grid, the customer will be required to complete a Small Generator Interconnection Agreement. Stand-alone battery storage systems are not included in the definition of "renewable energy" pursuant to Rule 25-6.065(2)(d), Florida Administrative Code, and the output from such systems is not net metered.

Exhibit B

Interconnection Agreement for Customer-Owned Renewable Generation
Tier 1 - 10 kW or Less

This Agreement, is made and entered into this _____ day of _____, 20____, by and between _____ ("Customer"), with an address of _____ and FLORIDA POWER & LIGHT COMPANY ("FPL"), a Florida corporation with an address of P.O. Box 14000, 700 Universe Boulevard, Juno Beach, FL 33408-0429.

WITNESSETH:

WHEREAS, the Customer has requested to interconnect its Customer-owned renewable generation, 10 kW AC or less, to FPL's electrical service grid at the Customer's presently metered location.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein set forth, the Parties hereto covenant and agree as follows:

1. **Definitions**
   1.1 Gross Power Rating means the total manufacturer's AC nameplate generating capacity of an on-site customer-owned renewable generation system that will be interconnected to and operate in parallel with FPL's distribution facilities. For inverter-based systems, the AC nameplate generating capacity shall be calculated by multiplying the total installed DC nameplate generating capacity by 0.85 in order to account for losses during the conversion from DC to AC.

   1.2 Capitalized Terms shall have the meanings set forth in Florida Public Service Commission Rule 25-6.065 F.A.C. - Interconnection and Net Metering of Customer-owned renewable generation.

2. **Customer Qualification and Fees**
   2.1. Customer-owned renewable generation shall have a Gross Power Rating that:
   a) does not exceed 90% of the Customer's utility distribution service rating; and
   b) is 10 kW AC or less.
   Gross Power Rating for the Customer-owned renewable generation is _____kW AC.

   2.2. The Customer shall not be required to pay any application fee for this Tier 1 Customer-owned renewable generation system.

   2.3. In order to commence the process for interconnection the Customer shall provide FPL a completed application.

3. **General Responsibilities of the Parties**
   3.1. Customer-owned renewable generation shall be considered certified for interconnected operation if it has been submitted by a manufacturer to a nationally recognized testing and certification laboratory, and has been tested and listed by the laboratory for continuous interactive operation with an electric distribution system in compliance with the applicable codes and standards of IEEE 1547, IEEE 1547.1, and UL 1741.
   3.2. Customer-owned renewable generation shall include a utility-interactive inverter, or other device certified pursuant to Section 3.1 above, that performs the function of automatically isolating the Customer-owned generation equipment from the electric grid in the event the electric grid loses power.
   3.3. The Customer shall be responsible for protecting its Customer-owned renewable generation equipment, inverters, protective devices, and other system components from damage from the normal and abnormal conditions and operations that occur on the FPL system in delivering and restoring power; and shall be responsible for ensuring that Customer-owned renewable generation equipment is inspected, maintained, and tested in accordance with the manufacturer's instructions to ensure that it is operating correctly and safely.
   3.4. The Customer agrees to provide Local Building Code Official inspection and certification of installation. The certification shall reflect that the local code official has inspected and certified that the installation was permitted, has been approved, and has met all electrical and mechanical qualifications.

(Continued on Sheet No. 9.051)

(Continued from Sheet No. 9.050)

3.5 The Customer shall notify FPL at least ten (10) calendar days prior to initially placing Customer's equipment and protective apparatus in service and FPL shall have the right to have personnel present on the in-service date.

3.6 Interconnection Agreement shall be executed by FPL within thirty (30) calendar days of receipt of a completed application.

4. **Inspection and On-going Compliance**

4.1 FPL will provide Customer with as much notice as reasonably practicable; either in writing, e-mail, facsimile or by phone as to when FPL may conduct inspection and/or document review. Upon reasonable notice, or at any time without notice in the event of an emergency or hazardous condition, FPL shall have access to the Customer's premises for the purpose of accessing the manual disconnect switch, performing an inspection or disconnection, or, if necessary, to meet FPL's legal obligation to provide service to its Customers.

5. **Manual Disconnect Switch**

5.1 U.L.1741 Listed, inverter-based Tier 1 customer-owned renewable generation systems do not require a customer-installed manual disconnect switch.

5.2 Other customer-owned Tier 1 renewable generation systems that are not U.L. 1741 inverter based. FPL shall require the Customer to install, at the Customer's expense, a manual disconnect switch of the visible load break type to provide a separation point between the AC power output of the Customer-owned renewable generation and any Customer wiring connected to FPL's system. The manual disconnect switch shall be mounted separate from, but adjacent to, the FPL meter socket. The Customer shall ensure that such manual disconnect switch shall remain readily accessible to FPL and be capable of being locked in the open position with a single FPL utility padlock.

5.3 In the event that FPL has determined with respect to the Customer-owned renewable generation that the installation of a manual disconnect switch or switches adjacent to FPL's meter socket would not be practical from a safety perspective and/or design considerations in accordance with good engineering practices; and FPL and the customer agree upon a location on the customer's premises for the switch or switches which meet all applicable safety and/or design considerations, then, pursuant to the conditions set forth in Section 5.2 above, each manual disconnect switch shall be mounted separate from FPL's meter socket at a location agreed to by the Customer and FPL, and the customer shall install a permanent weather-proof plaque adjacent to FPL's meter socket indicating the location of the manual disconnect switch or switches.

6. **Disconnection / Reconnection**

6.1 FPL may open the manual disconnect switch, if available, or disconnect the Customer's meter, pursuant to the conditions set forth in Section 6.2 below, isolating the Customer-owned renewable generation, without prior notice to the Customer. To the extent practicable, however, prior notice shall be given. If prior notice is not given, FPL shall at the time of disconnection leave a door hanger notifying the Customer that its Customer-owned renewable generation has been disconnected, including an explanation of the condition necessitating such action. FPL will reconnect the Customer-owned renewable generation as soon as practicable after the condition(s) necessitating disconnection has been remedied.

(Continued on Sheet No. 9.052)

(Continued from Sheet No. 9.051)

6.2 FPL has the right to disconnect the Customer-owned renewable generation at any time. This may result for the following reasons:

a) Emergencies or maintenance requirements on FPL's system;
b) Hazardous conditions existing on FPL's system due to the operation of the Customer's generating or protective equipment as determined by FPL; and
c) Adverse electrical effects, such as power quality problems, on the electrical equipment of FPL's other electric consumers caused by the Customer-owned renewable generation as determined by FPL.

7. **Modifications/Additions to Customer-owned Renewable Generation**

7.1 If the Customer-owned renewable generation system is subsequently modified in order to increase its Gross Power Rating, the Customer must notify FPL by submitting a new application and Interconnection Agreement specifying the modification at least thirty (30) calendar days prior to making the modification.

7.2 If the Customer adds another Customer-owned renewable generator system which i.) Utilizes the same utility inter-active inverter, or other device certified pursuant to Section 3.1 above, for both systems; and ii.) Utilizes a separate utility inter-active inverter, or other device certified pursuant to Section 3.1 above, for each system the Customer shall provide thirty (30) calendar days notice prior to installation.

7.3 In the event any Customer modifications or additions result in the input to any FPL meter so as to qualify as a Tier 2 or Tier 3 system, then all terms and conditions, including appropriate notice, of the Interconnection Agreement for Tier 2 or Tier 3 systems shall apply.

7.4 The Interconnection Agreement which applies in instances described in Sections 7.1, 7.2, and 7.3 above shall be determined by the combined gross power rating of the generation system(s) which is connected to the FPL meter. In all instances described in this Section 7, the Customer shall submit a new application to FPL and shall enter into a new Interconnection Agreement. In no event shall the maximum output of the Customer-owned generation system(s), which is connected to the FPL meter exceed 2 MW Gross Power Rating.

8. **Indemnity**

8.1 Customer, to the extent permitted by law without waiving or limiting any defense of sovereign immunity, shall indemnify, hold harmless and defend FPL from and against any and all judgments, losses, damages, claims relating to injury to or death of any person or damage to property, (including the Customer-owned renewable generation system), fines and penalties, costs and expenses arising out of or resulting from the operation of the Customer-owned renewable generation system, except in those instances where such loss is due to the negligent action or inactions of FPL. Nothing herein shall be intended to serve as a waiver or limitation of Customer's sovereign immunity defense as allowed by law.

8.2 FPL shall indemnify, hold harmless and defend Customer from and against any and all judgments, losses, damages, claims relating to injury to or death of any person or damage to property (including FPL's transmission system), fines and penalties, costs and expenses arising out of or resulting from the operation of FPL's system, except in those instances where such loss is due to the negligent action or inactions of the Customer.

(Continued on Sheet No. 9.053)

(Continued from Sheet No. 9.052)

9. Limitation of Liability

9.1 Liability under this Interconnection Agreement for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Interconnection Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall the indemnifying Party be liable to the other Party for any indirect, special, consequential, or punitive damages, except as authorized by this Interconnection Agreement.

10. **Assignment**

10.1 The Interconnection Agreement shall be assignable by either Party upon thirty (30) calendar days notice to the other Party and written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

10.2 An assignee to this Interconnection Agreement shall be required to assume in writing the Customer's rights, responsibilities, and obligations under this Interconnection Agreement; or execute a new Interconnection Agreement.

11. **Insurance**

11.1 FPL recommends that the Customer maintain Liability Insurance for Personal Injury and Property damage in amount of not less than $100,000 during the entire term of this Interconnection Agreement to the extent permitted by law. For government entities, the policy coverage shall not exceed the entity's maximum liability established by law.

12. **Renewable Energy Certificates**

12.1 The Customer shall retain any Renewable Energy Certificates associated with the electricity produced by their Customer-owned renewable generation equipment; any additional meters necessary for measuring the total renewable electricity generated for the purposes of receiving Renewable Energy Certificates shall be installed at the Customer's expense, unless otherwise determined during negotiations for the sale of the Customer's Renewable Energy Certificates to FPL.

13. **Lease Agreements**

13.1 The Customer shall provide FPL a copy of the lease agreement, as applicable, for any and all leased interconnection equipment.

13.2 The Customer shall not enter into any lease agreement that results in the retail purchase of electricity; or the retail sale of electricity from the Customer-owned renewable generation. Notwithstanding this restriction, in the event it is determined by the Florida Public Service Commission that the Customer has entered such an agreement, the Customer shall be in breach of this Interconnection Agreement and the lessor may become subject to the jurisdiction and regulations of the Florida Public Service Commission as a public utility.

14. **Dispute Resolution**

14.1 Disputes between the Parties shall be handled in accordance with subsection 11 of Florida Public Service Commission Rule 25-6.065 F.A.C. - Interconnection and Net Metering of Customer-owned renewable generation.

15. **Effective Date**

15.1 The Customer must execute this Interconnection Agreement and return it to FPL at least thirty (30) calendar days prior to beginning parallel operations and the Customer must begin parallel operation within one year after FPL executes the Interconnection Agreement.

16. **Termination**

16.1 Upon termination of this Interconnection Agreement, FPL shall open and padlock the manual disconnect switch, if applicable, and remove the Net Metering and associated FPL equipment. At the Customer's expense, the Customer agrees to permanently disconnect the Customer-owned renewable generation and associated equipment from FPL's electric service grid. The Customer shall notify FPL in writing within ten (10) calendar days that the disconnect procedure has been completed.

(Continued on Sheet No. 9.054)

(Continued from Sheet No. 9.053)

17. **Amendments to Florida Public Service Commission Rules**

17.1 FPL and Customer recognize that the Florida Public Service Commission rules may be amended from time to time. In the event that Florida Public Service Commission rules are modified, FPL and Customer agree to supersede and replace this Interconnection Agreement with a new Interconnection Agreement which complies with the amended Florida Public Service Commission rules.

18. **Entire Agreement**

18.1 This Interconnection Agreement supersedes all previous agreements or representations, either written or oral, heretofore in effect between FPL and the Customer, made in respect to matters herein contained, and when duly executed, this Interconnection Agreement constitutes the entire agreement between Parties hereto.

19. **Governmental Entities**

19.1 For those customers, which are government entities, provisions within this agreement will apply to the extent the agency is not legally barred from executing such provisions by State or Federal law.

(Continued on Sheet No. 9.054)

(Continued from Sheet No. 9.053.1)

IN WITNESS WHEREOF, the Parties hereto have caused this Interconnection Agreement to be duly executed the day and year first above written.

CUSTOMER

_____
(Signature)

_____
(Print or Type Name)

Title: _____

FLORIDA POWER & LIGHT COMPANY

_____
(Signature)

_____
(Print or Type Name)

Title: _____

The completed agreement may be submitted to FPL by:

E-mail - scan and e-mail to Netmetering@fpl.com

Mail - send to: Net Metering
FPL – Mail code CSF-GO
9250 W. Flagler St.
Miami, FL 33174

FAX - 305-552-2275